



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Research Triangle Park, NC 27711

October 25, 2006

OFFICE OF  
THE CHIEF  
FINANCIAL  
OFFICER

**MEMORANDUM**

SUBJECT: Notice of Proposed Suspension  
FROM: *Mary Ann Keith*  
Mary Ann Keith, Chief  
Financial Services Section  
RTP Finance Center  
TO: Larry F. Fisher, Accountant  
Financial Services Section  
RTP Finance Center

The purpose of this memorandum is to advise you that I propose to suspend you from duty and pay status for four (4) calendar days from your position as Accountant, GS-0510-14, in the Financial Services Section, RTP Finance Center. Should a decision be made to sustain this proposed suspension, the decision will be effected not earlier than seven (7) calendar days following your receipt of this notice. This notice of proposed suspension is issued in accordance with Title 5, Code of Federal Regulation, Part 752.

The specific reasons for this proposed action are as follows:

**Charge 1: Offensive Conduct/Language (1<sup>st</sup> Offense)**

**Specification:** On October 10, 2006, you sent an email indicating that Gloria Owens should be contacted concerning documentation for the accounts payable in the working capital fund. When Ms. Owens asked you about a report, you angrily confronted her and called her a "Liar." You became extremely angry and out of control. Ms. Owens left your office but could hear you calling her a "bitch" and other inflammatory words. Ms. Owens told you that she could hear you, but you continued the tirade and added more inflammatory words. Ms. Owens reported that she felt threatened by your offensive language and conduct.

Another employee was in the office and witnessed your actions and comments. He said that the profanity was uncalled for, no matter the situation. He said that your tone was disrespectful and accusatory and he would never thought of using such language with a peer. He reported that he had never felt more uncomfortable in a business situation than he did during this incident in your office.

**Specification:** On October 11, 2006, you sent an email to Douglas Barrett and copied Ms. Owens and another employee. You admitted your comments and admitted they were not



appropriate. However, you further antagonized Ms. Owens by continuing to claim that she was unable to tell the truth. Furthermore, you proceeded to attempt to intimidate and/or threaten Mr. Barrett and Ms. Owens with a reference to an incident which took place almost a year earlier. This email greatly increased Ms. Owens concerns about your behavior and conduct. She felt so threatened that she notified Mr. Barrett and Mr. Brown that she was afraid for her life. Mr. Barrett had to issue you written directions to not have any contact with Ms. Owens for any reason.

This email also equates to offensive conduct and exacerbated Ms. Owens perception of being threatened by your actions. Ms. Owens and Mr. Barrett were offended by your email and your efforts to intimidate them. Your language was inappropriate and offensive. Such conduct and language will not be tolerated.

**Charge 2: Disrespectful Conduct/Communication to a Supervisor (1<sup>st</sup> Offense).**

**Specification:** On October 12, 2006, Mr. Barrett issued you written instructions to not have any further communication with Ms. Owens. You responded by email to Mr. Barrett and copied me. You proceeded to provide disrespectful comments regarding both me and Mr. Barrett. You proceeded to provide a contemptuous, unsolicited evaluation of my performance and that of Mr. Barrett. Such is not the role of the subordinate employee. You further proceeded to make disparaging, disrespectful intimidating comments regarding the management staff including Ms. Owens. You made unsubstantiated comments regarding the performance of the RTP Finance Center. Your comments were clearly rude, disrespectful and inappropriate and will not be tolerated from a subordinate.

As a long term Federal employee, you are well aware of the requirements to treat all employees with dignity and respect. You have admitted your actions and comments were inappropriate, but you further exacerbated the situation with your email response to Ms. Owens. Your actions resulted in a disruption of the workplace and an employee reporting they were threatened by your comments and actions. The other employee was also disturbed by your actions and found the comments inappropriate. As a management official and former supervisor, you are well aware of the restrictions regarding workplace violence, threats and intimidation. Such actions and conduct will not be tolerated.

Your disrespectful comments violated accepted standards of civil behavior and decorum. Your email provided disrespectful comments regarding my ability as a supervisor and that of your next higher level manager. Such is not your role as a subordinate employee. It is not necessary to have rules for employees to communicate with respect to their supervisors. You are an experienced management official and former supervisor and are well aware that these comments were inappropriate. You have been counseled numerous times regarding your comments and despite all efforts, you have continued to make these rude, disrespectful and inappropriate comments.

The EPA Policy for Preventing Violence in the Workplace (EPA Order 1400.1A1 2/21/03) states: "Policy: EPA is committed to working with its employees to promote and maintain a safe work environment."



**“Employees, Managers, Supervisors:** To help foster a safe work environment, all members of the EPA workforce are responsible for conducting themselves in a non-threatening, non-violent manner with others at all times.”

Your conduct was improper and offensive. Your actions resulted in one employee reporting being threatened by your actions. Another employee described the profanity as uncalled for and described how he had never felt more uncomfortable in a business setting. Your actions disrupted the workplace. This intimidating behavior created an atmosphere of anxiety and concern which disrupted the workplace. This type of behavior cannot and will not be tolerated. Your email to me and Mr. Barrett was clearly disrespectful and inappropriate from a subordinate.

In determining the proposed penalties for these offenses, I have considered your number of years of Federal service as an Accountant. However, the nature of the offenses and your actions are unacceptable.

In reviewing EPA Order 3120.1, Conduct and Discipline, Appendix A, Table of Penalties, I find that the penalty for the charge offensive conduct ranges from a written reprimand to a ten (10) day suspension.

Therefore, I propose a four day suspension which is well within the recommended table of penalties. I consider this charge as very serious and deserving of discipline. Such conduct will not be tolerated. This proposed suspension is justified and necessary to impress upon you the seriousness of your actions. I consider this suspension the least penalty which is likely to correct your conduct.

You are hereby advised to refrain from future outbursts or offenses of this nature. You are warned that any future offenses of this or similar nature will be dealt with more severely and are advised that the recommended penalty for a second offense of this charge as outlined in the EPA Order 3120.1, Conduct and Discipline, Appendix A, Table of Penalties is a five-day suspension to removal.

If you feel that the misconduct cited above is due to personal problems, you may seek assistance through the Employee Assistance Program (EAP). You may obtain information about this program by contacting the EAP at 1-800-222-0364. Participation in this program is voluntary and the specifics are kept confidential. However, keep in mind that whether or not you seek counseling assistance will have no bearing on this proposed action.

You have the right to respond to this proposal both orally and in writing by submitting your response to Douglas Barrett, Director, RTP Finance Center, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. If you choose to reply, you must do so no later than close of business seven (7) calendar days from your receipt of this memorandum. If you wish to make an oral reply, you may include the request in your written reply; or, if you choose not to make a written reply, you must contact Mr. Barrett within the seven (7) calendar day reply period to make arrangements for an oral reply. Mr. Barrett may be reached at 541-3042.

You have the right to review the material relied on in proposing this action. A copy of



the material will be provided to you upon request to James Reno, Employee/Labor Relations Specialist at (919)541-4313. Subject to making satisfactory scheduling arrangements with me, you will be allowed up to eight (8) hours of official time to prepare a reply to this notice.

A decision will not be made on this proposed action until the expiration of the time allowed for reply. The decision will be based on the evidence of record, to include careful consideration of any written and/or oral response you may make. You will be notified in writing at the earliest practical date of the decision of this matter. You have the right to be represented by an attorney or another representative of your choice, subject to certain restrictions. Any representation you choose must be designated in writing to Mr. Barrett.

You are requested to sign and date the acknowledgment copy of this letter. Your signature does not indicate agreement with the contents of this letter but merely indicates that you received it and any attachments thereof.

ACKNOWLEDGMENT RECEIPT

James J. Smith  
Employee's Name

10/25/2006  
Date

cc: Douglas Barrett  
Mary S. Day

*Mr. Smith Refused to sign*

*Mr. Keith  
10/25/06  
3:47pm*